

REMARKS/ARGUMENTS

Favorable reconsideration of this application as presently amended and in light of the following discussion is respectfully requested.

Claims 1-18 are pending in this application. Claim 18 is amended by the present amendment.

Amendments to Claim 18 find support in the application as originally filed. Thus, no new matter is added.

In the outstanding Office Action dated December 22, 2008, Claims 1-18 were rejected under the doctrine of obviousness-type double patenting as unpatentable over Claims 1-40 of U.S. Publication 2007/0217406 (herein the '406 publication); Claims 1-18 were rejected under the doctrine of obviousness-type double patenting as unpatentable over Claims 1-12 of U.S. Publication 2003/0112766, now issued as U.S. Patent 7,289,453 (herein the '453 patent); and Claim 18 was rejected under 35 U.S.C. § 101.

Initially, Applicants and Applicants' representative gratefully acknowledge the courtesy of a personal interview with Examiner Ni on February 10, 2009. During the interview, rejections in the outstanding Office Action were discussed. Comments discussed during the interview are reiterated below.

Applicants respectfully request the provisional obviousness-type double patenting rejection with respect to the '406 publication be withdrawn.

MPEP § 804(i)(B)(1) notes that if a "provisional" non-statutory obviousness-type double patenting (ODP) rejection is the only rejection remaining in the earlier-filed of two pending applications, while the latter-filed application is rejectable on other grounds, the Examiner should withdraw that rejection and permit the earlier-filed application to issue as a patent without a terminal disclaimer. The USPTO database PAIR indicates that U.S. Patent Application 10/573,884, which corresponds to the '406 publication, has not yet been

examined. Further, as noted below, Applicants respectfully submit that all other grounds for rejection in this application are removed. Further, this application was filed on March 8, 2004, which is prior to the March 6, 2007 filing of the application corresponding to the '406 publication.

Thus, according to MPEP § 804 and as discussed during the interview, it is respectfully requested that the provisional obviousness-type double patenting rejection in this application be withdrawn without the filing of a terminal disclaimer.

In addition, Applicants respectfully traverse the obviousness-type double patenting rejection with respect to Claims 1-12 of the '453 patent.

Applicants respectfully submit that Claims 1-18 of the present application and Claims 1-12 of the '453 patent are patentably distinct from each other. For example, Claim 1 of the present application is directed to a handover method that includes determining quality of service (QoS) resources of each potential routing path between a mobile node and a correspondent node, and Applicants respectfully submit that the independent claims of the '453 patent do not require that feature. Moreover, Claim 1 of the '453 patent is directed to a quality of service (QoS) management unit that includes at least one processing unit for managing request messages for each type of QoS request on behalf of input signals received from an analysis unit, a monitoring unit and/or further sub-units of the QoS management unit, and Applicants respectfully submit that the present independent claims do not require that feature. Accordingly, Applicants respectfully submit that Claims 1-12 of the '453 patent and Claims 1-18 of the present application are patentably distinct from each other.

Accordingly, it is respectfully requested the obviousness-type double patenting rejection with regard to the '453 patent also be withdrawn.

Regarding the rejection of Claim 18 under 35 U.S.C. § 101, Claim 18 is amended to recite "[a] computer program product that stores computer executable instructions."

Amended Claim 18 finds support in the specification as originally filed, at least in original Claim 18. As known to one of skill in the art, a computer program product includes various types of physical computer storage media, for example, computer memory or computer disk, and excludes patent ineligible signals. Thus, Applicants respectfully submit that the amended terminology excludes non-statutory interpretations of the subject matter of Claim 18.

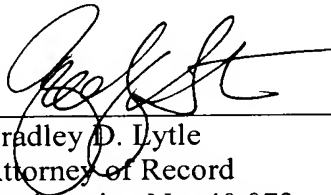
Therefore, it is respectfully requested that the rejection under 35 U.S.C. § 101 also be withdrawn.

Accordingly, Applicants respectfully submit that Claims 1-18 are allowable.

Consequently, in light of the above discussion and in view of the present amendment this application is believed to be in condition for allowance and an early and favorable action to that effect is respectfully requested.

Respectfully submitted,

OBLON, SPIVAK, McCLELLAND,
MAIER & NEUSTADT, P.C.



Bradley D. Lytle
Attorney of Record
Registration No. 40,073

Customer Number
22850

Tel: (703) 413-3000
Fax: (703) 413 -2220
(OSMMN 08/07)

Zachary S. Stern
Registration No. 54,719